

1	APPEARANCES: (continued)	
2	ILLINOIS COMMERCE COMMISSION, by	
3	MR. DANIEL C. POWERS	
4	On behalf of Staff of the Illinois	
5	Commerce Commission	
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1 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: By the
2 power vested in me by the state of Illinois and the
3 Illinois Commerce Commission, I now call Docket T14-0047
4 for hearing. This is in the matter of the Village of
5 Plainfield vs. the Wisconsin Central Limited and the
6 State of Illinois Department of Transportation as
7 Respondents. And they have filed a petition for the
8 construction of a proposed multi-use path grade crossing
9 and installation of pedestrian warning gates of the
10 railroad in the Village of Plainfield adjacent to the
11 existing at-grade crossing at 135th Street, Railroad
12 Mile Post 11.43 AAA/DOT No. 260575M. And that is in the
13 Village of Plainfield, Will County, Illinois.

14 May I have appearances starting with the
15 Village.

16 MR. HARVEY: Your Honor, James B. Harvey, attorney
17 for the Village of Plainfield, 2801 Black Road, Joliet,
18 60435.

19 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Thank
20 you. You may be seated.

21 MR. HARVEY: Thank you.

22 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: No
23 need to stand.

24 And, sir, who are you?

25 MR. JESSEN: Randall Jessen, superintendent of

1 public improvements, Village of Plainfield, 14400 Coil
2 Plus Drive, Plainfield, Illinois 60544.

3 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Can
4 you spell your last name.

5 MR. JESSEN: J E S S E N.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Thank
7 you. And for Wisconsin Central?

8 MR. HEALEY: Good afternoon, your Honor. Thomas
9 Healey, H E A L E Y. Counsel on the behalf of Wisconsin
10 Central. My address is 17641 South Ashland Avenue in
11 Homewood, Illinois 60430. The phone number is
12 (708) 332-4381.

13 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Staff?

14 MR. POWERS: Daniel Powers, Illinois Commerce
15 Commission Staff, 527 East Capitol Avenue in
16 Springfield, Illinois 62701. And the phone is
17 (847) 516-0733.

18 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Thank
19 you.

20 Okay. Mr. Harvey, I will give you the floor
21 to present the petition. But before you do that, are
22 you going to have any witnesses testify in support --

23 MR. HARVEY: Yes, your Honor. Mr. Jessen and
24 Mr. Haussmann will --

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

1 MR. HARVEY: -- both be testifying.

2 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Could
3 you please stand and raise your right hand.

4 (Witnesses sworn.)

5 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.
6 You may be seated.

7 And I'll give you the floor, Mr. Harvey, to
8 present the petition.

9 MR. HARVEY: Okay. As Mr. Healey, the Railroad,
10 said, I think the parties are in agreement as to the
11 need for the construction of the crossing and the
12 multi-use pathway at 135th and the Wisconsin Central.
13 They have an issue, which they've expressed to us,
14 regarding the pedestrian gates. And those are also the
15 second part of our petition; to install pedestrian gates
16 at that crossing. Also, for safety.

17 And just briefly we'll just have two
18 witnesses; Mr. Jessen, who's the public improvements
19 manager for Plainfield, and Mr. Haussmann, one of the
20 engineers of Baxter & Woodman.

21 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

22 MR. HARVEY: So our first witness will be
23 Mr. Jessen.

24 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.
25 And you can have a seat.

1 Are you -- I'm sorry. Go ahead. I'm sorry.

2 MR. HARVEY: Sure. Can I proceed then?

3 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: You

4 may. You may.

5 MR. HARVEY: Okay.

6 (Witness previously sworn.)

7 WHEREUPON:

8 RANDALL W. JESSEN,

9 called as a witness herein, having been first duly

10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. HARVEY:

13 Q. Would you state your name for the Commission

14 and spell your last name.

15 A. Randall Jessen, J E S S E N.

16 Q. And in what capacity are you employed by the

17 Village of Plainfield?

18 A. Superintendent of public improvements.

19 Q. Okay. And, Mr. Jessen, can you briefly

20 describe your responsibilities.

21 A. Basically, to lead and direct the engineering

22 departments of the Village of Plainfield, overseeing

23 infrastructure and transportation projects, including

24 in-house design and site consultants.

25 Q. And can you generally describe the type of

1 development that's ongoing in the Village of Plainfield.

2 A. Currently, the Village is roughly about 40,000
3 people. The development that's going on is primarily
4 residential with an emphasis on commercial, as well, on
5 the main routes, 59 and what have you.

6 Q. And can you describe the anticipated
7 population growth in Plainfield.

8 A. We're expecting the population of Plainfield
9 to be roughly 62,000 by the year 2030.

10 Q. Okay. And the population currently is?

11 A. Roughly around 40,000.

12 Q. Okay. And could you describe the proposed
13 project.

14 A. As earlier stated, the crossing at 135th
15 Street, the railroad crossing, has two opposing
16 multi-use paths that come up to close but not quite
17 crossing the railroad tracks. And this project would
18 make that connection and provide a safe means for
19 pedestrians to get across there. Right now, when they
20 come to the ends of the bike path, they want to go east
21 or west, they have to go up onto the road to have a hard
22 surface to go on.

23 Q. So there's a gap between the two pathways.

24 A. There's a gap there now, yes. So it would be
25 an asphalt service. There's some minor grading

1 improvements. A concrete median would be installed on
2 135th Street to add to the safety of the crossing, as
3 well.

4 Q. Okay. And could you briefly describe the
5 intergovernmental cooperation that the Village has
6 received from other entities for this project.

7 A. Yes. So when we undertook the project, the
8 design phase, we discovered that there were two small
9 slivers of 135th Street that still fell under the
10 jurisdiction of Wheatland Township Highway Department
11 and the Plainfield Township Highway Departments.

12 We contacted the highway commissioners at both
13 agencies, explained the project to them, and secured a
14 jurisdictional transfer from both of those agencies. So
15 the road is completely under the jurisdiction of the
16 Village of Plainfield right now.

17 Q. And, Mr. Jessen, could you outline how the
18 proposed project supports the goals of the Village's
19 transportation and strategic plan.

20 A. Roughly about a year ago we completed through
21 a grant through CMAP (phonetic) the overall Village
22 transportation plan. And in that, we had focus groups
23 with the community and other stakeholders in the area,
24 and came up with deficiencies in the vehicular
25 transportation, as well as pedestrian and bicycling

1 transportation needs. And this location came up as one
2 of the high needs locations within the community. As
3 well as [sic] the Board also had undergone a strategic
4 plan; and within that, in the next five years, one of
5 their goals was to increase -- or increase the access
6 for pedestrians within the Village. And this project
7 would also support that strategic goal.

8 Q. And the Village's transportation plan and
9 their strategic plan are both policies that the entire
10 Board has adopted through the Village of Plainfield; is
11 that correct?

12 A. That's correct.

13 Q. And could you describe, Mr. Jessen, how close
14 is the elementary school, Walkers Grove, in proximity to
15 other key destinations in this corridor?

16 A. Elementary school's about 850 feet away from
17 the crossing. And recently in January, a new McDon- --
18 There's a Walgreens over here, as well. And in January
19 a new McDonald's opened up in one of the vacant lots.
20 So there is a fair amount of destination points on the
21 west side of 135th -- west side of the railroad
22 crossing.

23 And east of the crossing is higher density
24 residential subdivisions, and then there are a Jewel,
25 grocery stores, other convenience stores, as well.

1 Q. All right. And has the Village obtained all
2 the rights of ways, easements, and licenses necessary
3 for the construction of this crossing?

4 A. Yes. We have the agreement for a multi-use
5 path from Commonwealth Edison, a license agreement with
6 Canadian National, and all other *right-of-ways have
7 been secured.

8 Q. Okay.

9 MR. HEALEY: If I can, just so the record is clear,
10 it's not Canadian National. It's Wisconsin Central.

11 THE WITNESS: I apologize.

12 MR. HEALEY: Okay. We're just real particular
13 about --

14 THE WITNESS: Okay.

15 MR. HEALEY: -- keeping the parent up in Canada.

16 THE WITNESS: Right.

17 BY MR. HARVEY:

18 Q. And just to clarify for the record,
19 Mr. Jessen, so the Village and Wisconsin Central
20 executed a license agreement for this multi-use pathway
21 and improvements on approximately March 3rd of 2014?

22 A. That's correct.

23 Q. Okay.

24 MR. HARVEY: No further questions for Mr. Jessen.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

1 Mr. Healey, do you have any questions for the
2 witness?

3 MR. HEALEY: No, I don't.

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

5 MR. HEALEY: Thank the witness for his time.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

7 Mr. Powers, do you have any questions for the witness?

8 CROSS-EXAMINATION

9 BY MR. POWERS:

10 Q. Does this particular project have a certain
11 funding mechanism?

12 A. There are several funding mechanisms via
13 security grants to aid in the construction costs of the
14 project, as well as the Village has budgeted money in
15 this year's budget for the balance of the construction
16 cost. So all funds have been secured.

17 The only exception to that is the pedestrian
18 gate in question. There's a grant that would be
19 available if the order is approved.

20 Q. Has any of the funding mechanisms that are in
21 place have any expiration dates that you're aware of?

22 A. Yes. The grant for the construction is
23 December 31st of this year, of 2014.

24 MR. POWERS: No further questions, your Honor.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

1 And I don't -- I'm sorry if I missed this, but
2 how long does the Village anticipate the project will
3 take? I mean, when will it -- when should it be
4 completed?

5 THE WITNESS: I would think after contracts are
6 executed, the construction of the work shouldn't take
7 more than a month or so. It's not a very involved
8 project. It's more a coordination with the Wisconsin
9 Central. And for the track bed improvements, we could
10 just bring the asphalt path up to those points and a
11 concrete median and some signage and striping.

12 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.
13 Thank you. That's all I have.

14 Do you have anything further?

15 MR. HARVEY: Nothing further.

16 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

17 (Witness previously sworn.)

18 WHEREUPON:

19 LOUIS D. HAUSSMANN, P.E., PTOE,
20 called as a witness herein, having been first duly
21 sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. HARVEY:

24 Q. Could you please introduce yourself to the
25 Commission by stating your name and spelling your last

1 name.

2 A. Yes. I am Lou Haussmann with Baxter &
3 Woodman. My last name is H A U S S M A N N. My address
4 is 8678 Ridgefield Road, R I D G E F I E L D, in Crystal
5 Lake, Illinois 60012.

6 Q. And could you please describe your role in
7 this project for the Village of Plainfield,
8 Mr. Haussmann.

9 A. Yes. I serve as the consulting engineer to
10 the Village on Plainfield. I'm the design project
11 manager for this particular project, and I also helped
12 the Village with the preparation of the application for
13 funding of the at-grade crossing.

14 Q. And can you describe this project for the
15 Commission, please.

16 A. In general, the project involves the --
17 filling a gap of about 350 feet between bicycle -- or a
18 shared use path/bicycle path on both the east and the
19 west side of the Wisconsin Central right of way; and Com
20 Ed also has a large right of way in there, as well.
21 Bicycle paths come up to these right of ways right now
22 and terminate, and they turn into the street, 135th
23 Street, in both cases.

24 The proposed improvements also include the
25 installation of a concrete barrier median in the middle

1 of 135th Street, which will provide additional safety
2 for cars crossing the tracks. Right now there's some
3 flexible plastic delineators in the middle of 135th
4 Street. Proposed improvements would put those up on top
5 of the concrete median, making it easier to maintain and
6 provide a more positive warning device for cars not to
7 go around the gates.

8 And then the installation of the pedestrian
9 gates are also contemplated as warning devices for
10 pedestrians on the new pathway so they can further see
11 the -- view the crossing vertically.

12 Q. And could you tell the Commission why the ICC
13 has sought installation of the gates.

14 A. We did turn in our draft plans to the ICC
15 Staff for review. And back in December of 2013, we were
16 contacted by Staff requesting the addition of the
17 pedestrian gates. We felt like the gates provide an
18 additional warning device for the crossing. With the
19 proximity of the school to the crossing about 800 feet
20 away -- there's an elementary school nearby -- some
21 additional warning devices may be warranted.

22 The ICC Staff sent us a publication from the
23 Federal Highway Administration, a report -- ICT 13013 --
24 which was entitled Pedestrian/Bicyclist Warning Devices
25 and Signs At Highway Rail and Pathway Rail Grade

1 Crossings. This publication published in April of 2013,
2 and they felt that based on the guidelines presented in
3 that publication that this location was a good one to
4 apply pedestrian warning gates in addition to the
5 proposed striping and signing issue.

6 Q. And approximately what is the pedestrian use
7 for this particular crossing?

8 A. Well, based on observation taken by our staff
9 and Village staff, we would estimate there's about 40
10 pedestrians, slash, bicyclists that utilize the crossing
11 today. Most of the -- those folks have to go out into
12 the street currently.

13 We would anticipate if -- once the project is
14 complete, that we would see an increase in the usage of
15 the path, and this facility may serve as many as perhaps
16 80 pedestrian/bicyclists crossing after it is completed
17 when it's made continuous. So we do expect an uptake in
18 the usage if the gap were filled.

19 Q. And approximately how many trains use this
20 crossing?

21 A. Well, currently, there's approximately 17
22 trains per day utilizing the crossing. However, the
23 projected usage of the crossing could be as many as 45
24 trains per day in the future as the media increases from
25 the railroad.

1 Q. Okay. What's the average speed of trains at
2 that crossing?

3 A. There's a maximum speed, I think, that's being
4 utilized around 45 miles an hour. However, the trains
5 could go as slow as five miles an hour as the minimum
6 speed for utilizing the crossing right now.

7 Q. And approximately how many motorized vehicles
8 use that crossing, Mr. Haussmann?

9 A. We counted the cars on 135th Street back in
10 2012, and there were about 11,100 vehicles per day
11 utilizing the crossing. We did provide -- prepare
12 supplemental traffic counts this year, and we're looking
13 at about 12,700 vehicles per day on the street side on
14 135th Street crossing tracks.

15 Q. Okay. And do you know approximately what the
16 school bus usage is at that crossing?

17 A. Yes. We did contact -- The Village contacted
18 the school district to ask what their usage was, and
19 they feel that approximately 110 school buses per day
20 traverse the tracks on 135th Street.

21 Q. And Walkers Grove is an elementary school; is
22 that correct?

23 A. It is an elementary school.

24 Q. And could you describe the design of the
25 project in terms of signage and striping.

1 A. We provided proposed stripeage and signage to
2 provide warnings for both vehicles and pedestrians
3 approaching the at-grade rail crossing currently. We
4 utilized the manual on uniform traffic control devices
5 and Chapter 8-D, which provides some guidance for
6 appropriate devices prior to the crossing. We also
7 utilized the Illinois supplement to the Illinois Uniform
8 Traffic Control Devices. And, furthermore, during the
9 review of our preliminary plans by ICC Staff, they
10 provided us with some guidance on a good level of
11 striping and signage.

12 Q. Okay. And could you describe the cooperative
13 efforts received by the Village from the ICC regarding
14 financing of this project.

15 A. Yes. We did apply for some funding to help
16 with the construction costs of the project. The ICC
17 made some funding available, I believe, through the FRA
18 to help mitigate the impact of the conditional rail
19 traffic in this area. We applied with the Village to
20 provide this -- the construction -- help provide for the
21 construction cost of the crossing and the warning
22 devices, and the grant amount was approximately
23 \$180,000. And that's the grant that Mr. Jessen spoke of
24 earlier.

25 Q. Okay. And is there a need for those funds to

1 be expended by a certain time frame?

2 A. Yes, sir. The grant agreement currently
3 states that the funds need to be extended by
4 December 31st, 2014.

5 Q. Okay. And could you just describe briefly the
6 proposed median being installed.

7 A. Yes. Is it appropriate to utilize an exhibit?

8 Q. Sure.

9 A. Okay.

10 Q. And, Mr. Haussmann, calling your attention to
11 part of Exhibit 1, this is from the plans that the
12 Village has submitted, our Exhibit 1 in the petition?

13 A. Yes, this is from the plans that the Village
14 has submitted.

15 Q. Okay. And so could you describe the proposed
16 installation.

17 A. 135th Street runs in an east/west direction
18 shown through here, and the roadway's shown in this
19 direction. The proposed 350-foot bicycle path gap is
20 shown on the south side of 135th Street in the darker
21 black lines here. The proposed median is shown on both
22 sides of the rail crossing, both on the west side and on
23 the east side.

24 And like I said, basically, the proposed
25 median would take the place of the existing flexible

1 plastic delineators that are out in the centerline of
2 the street now. The delineators would be mounted on top
3 of the concrete median after the project is completed.

4 Several proposed signs are shown on the plan,
5 and the proposed striping both on the roadway and on the
6 shared use path are shown in dark lines. There's a
7 crosswalk just east of the crossing that's existing, but
8 those crossing markings would be updated and new ones
9 would be placed in there to allow folks to cross from
10 the north side of 135th Street to the south side of
11 135th Street and utilize the proposed shared use path
12 crossing.

13 There's also pedestrian warning gates shown in
14 sort of small black symbols here on both the west and
15 the east side of the at-grade rail crossing and proposed
16 conditions.

17 Q. Okay. Thank you very much.

18 And, Mr. Haussmann, could you confirm that the
19 Village has budgeted sufficient funds to pay for their
20 share of the project?

21 A. Yes. It -- My understanding, the Village has
22 sufficient funds within this year's budget to get this
23 project completed. They have included this project in
24 their proposed budget for this fiscal year.

25 MR. HARVEY: Thank you very much.

1 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

2 Mr. Healey, do you have any question for the witness?

3 MR. HEALEY: I did.

4 CROSS-EXAMINATION

5 BY MR. HEALEY:

6 Q. Taking the last point you just raised first,
7 the sufficient funds to pay for the project. There's a
8 portion of the project that hasn't yet been estimated on
9 a cost basis, right?

10 A. That's correct, sir.

11 Q. And that would be the pedestrian gates?

12 A. Yes, sir.

13 Q. Okay. Was some assumption made as to the cost
14 of the pedestrian gates in determining whether the
15 funding would be sufficient?

16 A. There was.

17 Q. Do you know what that number was --

18 A. Yes.

19 Q. -- the assumption?

20 A. We were provided some guidance by the ICC
21 Staff that the gates would be -- cost in the ballpark of
22 \$100,000 --

23 Q. All right.

24 A. -- for construction costs.

25 Q. I also wanted to come back to some testimony

1 you gave relative to the traffic counts on the road out
2 there. Did I hear you correctly the most recent traffic
3 count is 12,000 vehicles a day?

4 A. Yes. And that includes both directions, both
5 east and west.

6 Q. Sure.

7 A. 12,000- -- It's 12,700.

8 (Witness viewing document.)

9 BY THE WITNESS:

10 A. 12,700.

11 Q. I mean, that's more than eight vehicles a
12 minute, if my math is right. That seems awfully high,
13 having been out there a couple times.

14 A. There's a substantial amount of traffic at --
15 especially in the morning and afternoon rush hours in
16 that area. And with the school and the new businesses
17 at the intersection of 135th Street and Route 30, the
18 Village is seeing an uptake in traffic quite a bit.

19 Q. Coming back to the issue of the pedestrian
20 gates, if I understand your testimony, the pedestrian
21 gates were not the initial idea of either the Village or
22 Baxter Woodman, but, in fact, were suggested by the
23 Commerce Commission. Is that correct?

24 A. The Commerce Commission Staff did suggest the
25 installation of the gates as part of the proposed

1 project. The Village had some crossings -- pedestrian
2 crossings within the town with the gates and some
3 without.

4 Q. Okay. You -- Because we didn't hear any
5 testimony qualifying you as an expert on this, you are
6 not an expert on the need for pedestrian gates at grade
7 crossings. Correct?

8 A. I am not an expert on the need for pedestrian
9 gates at grade crossings; that's true.

10 Q. Okay. And so the petitioner's reliance upon
11 the -- we'll call it the need for the gates is premised
12 upon the comments of Staff from the Commerce Commission.

13 A. The Commerce Commission definitely guided us
14 in the inclusion of those gates.

15 Q. Okay. And ... Oh. You had also testified
16 that the Village was projecting perhaps 80 users of the
17 path. I assume that's pedestrians and bicyclists and
18 joggers and strollers.

19 A. That is correct. That would include all
20 users, yes.

21 Q. Okay. Can you tell us what the projection of
22 80 was based on?

23 A. The fact that we currently have approximately
24 40 per day. We -- The Village recently opened up a
25 McDonald's Restaurant on the west side of Route 30 and

1 the 135th Street crossing and has made the intersection
2 a lot more attractive for people to get to. There's a
3 substantial residential neighborhood volume of folks
4 just east of this crossing. And our thought was, if the
5 crossing was a little bit safer to traverse, we would
6 see more people coming from the homes on the east side
7 of the track to the restaurants on the west side of the
8 tracks.

9 Q. The 80 number, though, the increase from the
10 crossing being more attractive to people, that comes
11 from the installation of the path. That's not
12 necessarily premised on whether the gates go in or not.

13 A. That is correct, sir.

14 Q. The pedestrian gates.

15 A. That is correct.

16 Q. All right. Outside of the materials you were
17 provided by the Commerce Commission Staff, did you do
18 anything else to investigate safety arguments for or
19 against pedestrian gates at grade crossings?

20 A. Yes.

21 Q. Okay.

22 A. We did observe the -- There's a rather recent
23 installation of pedestrian gates in the Village down at
24 Renwick Road and a spur of this Wisconsin Central line.

25 Q. Yeah.

1 A. And it's our first pedestrian rail crossing in
2 town that has pedestrian gates. So we did go down there
3 to observe how that worked and if it was functioning
4 correctly. And it's been in place probably about a
5 year, maybe a little bit less, and so far it's been
6 operating fine. We haven't had any reported issues down
7 there.

8 So we did take a look at that because it was
9 relatively a newer idea for us. We've had several other
10 at-grade crossings in town without the gates. Those
11 have been operating fine, too.

12 Q. Did you do anything to investigate with the
13 Railroad whether the additional pedestrian gates caused
14 any maintenance issues for the signal staff of the
15 railroad?

16 A. I did not personally investigate with the
17 Railroad, but I have heard that there are maintenance
18 concerns with the -- by the railroad staff.

19 Q. And what kinds of things have you heard?

20 A. That it just requires more maintenance.

21 Q. Have you heard about pedestrian gates being
22 broken off?

23 A. I have not, personally.

24 Q. Have you heard stories about kids daring each
25 other to stand inside the gates as the trains approach?

1 A. I have not, no.

2 MR. HEALEY: That's all I have for the witness.

3 Thank you, your Honor.

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

5 Mr. Powers?

6 CROSS-EXAMINATION

7 BY MR. POWERS:

8 Q. As far as the number of trains and the speed
9 of the trains, was that verified with the Railroad as
10 far as the existing counts versus proposed counts?

11 A. These were the numbers that we had developed
12 as part of our Grade Crossing Protection Fund
13 application. We did coordinate quite a bit with the
14 prior railroad manager, the Elgin, Joliet & Eastern --
15 EJ & E -- Railroad, and they provided the Village with
16 some current crossing data, as well as proposed
17 projections of usage on the crossing. So that's where
18 those numbers came from.

19 Q. Okay. So, really, there's no hard evidence
20 that there's 17 trains per day. It could be more?

21 A. It could be more. That's correct.

22 Q. Okay. And as far as the increase in number of
23 trains, is that a result of the acquisition of the rail
24 line by the CN from EJ & E?

25 A. That's where we obtained those projected

1 numbers from. That's correct.

2 Q. Okay. Do you know what's included in the
3 license agreement between the Village and Wisconsin
4 Central at this particular crossing as far as what's
5 covered and what's not covered?

6 A. I have -- I do know some of that information.

7 Q. Okay. Were pedestrian gates included in that,
8 or was that passed on?

9 A. The pedestrian gates were contemplated in the
10 licensing agreement. If they were to be required, my
11 understanding is that the maintenance of those gates
12 would be a cost borne by the Village of Plainfield.

13 Q. Okay. When you mentioned the Renwick Road
14 crossing, was there a license agreement with the
15 Wisconsin Central on that one?

16 A. I'm not aware of that particular agreement,
17 but the Village may be able to speak to that.

18 Q. All right.

19 MR. POWERS: I have no further questions.

20 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

21 I'm looking at page 2 of the petition,
22 paragraph six. It says, Costs associated with the
23 requested multi-use path grade crossing shall be funded
24 by the Village, and said pedestrian gates costs shall be
25 shared by the Village and the Grade Crossing Protection

1 Fund.

2 So is there a request for grade crossing
3 protection funding, as well?

4 THE WITNESS: Yes, your Honor. There is an
5 application submitted on behalf of the Village for the
6 Grade Crossing Protection Fund for those gates.

7 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: And
8 what is the amount that's being requested?

9 THE WITNESS: I'm sorry. I do not have the answer
10 to that question. Anybody else?

11 (Discussion off the record.)

12 THE WITNESS: 50 percent of the hundred, thousand
13 dollar estimate that we have is what was submitted on
14 the application.

15 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: 50
16 percent?

17 THE WITNESS: Yes. So it'd be --

18 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: So
19 50,000?

20 THE WITNESS: -- \$50,000 from the ICC. Correct.

21 Thank you.

22 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

23 Anything further? Mr. Harvey?

24 MR. HARVEY: No, your Honor, I don't anything
25 further at this time.

1 MR. HEALEY: I do have one follow-up on Mr. Powers'
2 question.

3 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

4 RE CROSS-EXAMINATION

5 BY MR. HEALEY:

6 Q. Mr. Haussmann, you discussed briefly the
7 license agreement. I know you don't have it in front of
8 you, and you probably didn't spend time memorizing it
9 before the hearing. But there is discussion in there
10 about pedestrian gates, but there's no concession as to
11 the need for them. Right?

12 A. That's correct.

13 Q. The framing of the discussion is, If they're
14 ordered in by the Commerce Commission, these are the
15 terms it will cover.

16 A. That's what I recollect. Yes, sir.

17 Q. Okay. Thank you for that clarification.

18 MR. HEALEY: I have nothing further.

19 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

20 Is -- Are you -- Is that all of the evidence
21 you wish to present today, Mr. Harvey?

22 MR. HARVEY: Yes.

23 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

24 Mr. Healey, do you have anything that you
25 would like to add for the record?

1 MR. HEALEY: I don't. I don't have a witness
2 today, and we appreciate the time the witnesses gave us
3 today.

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

5 Mr. Powers, can you give us the ICC Staff
6 position on this particular project.

7 MR. POWERS: The Staff supports the need -- or the
8 project overall. And right now pedestrians are forced
9 to a street in this particular location, so the path and
10 the inclusion of pedestrian gates is a Staff
11 recommendation. And the Staff also recognizes that the
12 application for a Grade Crossing Protection Fund be
13 utilized to help fund the installation of pedestrian
14 gates at this crossing.

15 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.
16 Thank you.

17 So, with that, I think I can mark the record
18 heard and taken.

19 MR. HEALEY: Can I have a very short closing
20 statement, your Honor?

21 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Oh,
22 sure. I was asking --

23 MR. HEALEY: I guess it's proper to defer if you
24 wanted of make any closing statements first.

25 MR. HARVEY: I'll defer. We've had the floor most

1 of the time.

2 MR. HEALEY: That's okay.

3 Again, I just -- And this has come up in
4 several hearings we've had. I just want to point out
5 the deficiency of the evidence in this case to support
6 the installation of pedestrian gates. Mr. Powers has
7 testified that it's the Staff's recommendation that the
8 gates go in, but he hasn't provided any evidence as to
9 why that would be necessary.

10 Mr. Haussmann testified largely through
11 hearsay to what the Staff had told him, and yet he
12 himself wasn't testifying as to any determination of the
13 need for these gates. So I'm reminded of something I
14 said to your Honor perhaps a month ago at a hearing,
15 which is, Just because somebody's willing to pay for
16 something doesn't mean it's justified under the state
17 statutes to go in.

18 Frankly, the record is barren of evidence to
19 support the safety enhancement for the gates. And in
20 light of the additional costs, the Railroad stands on
21 its recommendation that the active warning devices not
22 be installed for the pedestrian crossing, again, to be
23 clear without opposition to the installation of the path
24 itself. We're fine with that.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Just

1 so I'm clear, future maintenance of the gates will be
2 the responsibility of the Village?

3 MR. HEALEY: We'd do it --

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: You'd
5 do it, and bill --

6 MR. HEALEY: -- and they'd fund it.

7 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: I've
8 got you. And let me write that down.

9 (Brief pause.)

10 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Did
11 you want to make a closing argument, Mr. --

12 MR. HARVEY: Yeah. Just briefly because there is
13 no issue as to, I think, the need for the multi-path
14 crossing. The issue of the pedestrian gates. While we
15 didn't do any independent research, Mr. Haussmann
16 testified that not only, you know, was it suggested, you
17 know, by Staff for the ICC, but there was also, you
18 know, an independent study done in terms of the benefit
19 to the public in terms of public safety for the
20 installation of these pedestrian gates. And the
21 Village's position is, while that might have not been
22 part of the original design, you know, we rely on
23 experts, and the ICC would be recognized -- their
24 expertise in this area.

25 We're not before the Commission on a regular

1 basis, you know, but we do have a lot of rail crossings
2 in the Village because of our geography and where we are
3 in terms of location in the Chicago metro area. And the
4 Villages's position is that, if this could enhance
5 safety in even an incremental way, then it would be a
6 good and valid addition to the project.

7 Thank you.

8 MR. HEALEY: Your Honor, if I might --

9 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: You
10 may.

11 MR. HEALEY: -- point -- Thank you.

12 (Continuing.) -- just point out that that is
13 the argument of Counsel. That's not evidence. The
14 discussion of prior studies on safety or Counsel's
15 belief on the enhancement of safety is not part of an
16 evidentiary record upon which an order can be based.

17 Thank you.

18 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

19 We have anything further from anyone else?

20 (No verbal response.)

21 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: I have
22 a question that I'd like to ask Mr. Powers.

23 Is it Staff's opinion that the crossing would
24 be safer with the pedestrian gates than without it?

25 MR. POWERS: Yes, your Honor.

1 MR. HEALEY: Can I lodge an objection to the
2 qualifications of the witness to provide expert
3 testimony?

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: I
5 don't know if that's expert testimony, but I will allow
6 you to lodge your objection.

7 MR. HEALEY: Thank you, your Honor.

8 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.

9 MR. POWERS: You know, just on the record, we --
10 the FHWA study was referenced, and there was actual
11 field studies done in that study that -- basically with
12 video evidence in support of the fact that people pay
13 attention to pedestrian gates more than any other
14 warning device. That's in the study that was referenced
15 earlier.

16 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: Okay.
17 Okay. Anything further from anybody?

18 MR. HARVEY: Nothing from the Village, your Honor.

19 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: All
20 right.

21 Well, I'm going to mark the record heard and
22 taken. And I would like the Village to draft, and maybe
23 Staff can give you a hand, a draft order. I know it's
24 not going to be agreed since the Railroad has this
25 issue, but it would give me a good starting point to get

1 going on this matter. And whatever I do, I will issue a
2 proposed order giving the parties the opportunity to
3 state their agreement or objection with whatever the
4 decision is.

5 MR. HEALEY: Thank you.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE: All
7 right. Thank you.

8 MR. HARVEY: Thank you, your Honor.

9 (Which were all the proceedings had
10 in the above-entitled cause.)
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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF COOK)

3

4 Kathleene A. Tanksley, being first duly sworn,
5 on oath says that she is a Certified Shorthand Reporter,
6 Registered Professional Reporter, and Notary Public
7 doing business in the City of Chicago, County of Cook
8 and the State of Illinois;

9 That she reported in shorthand the proceedings
10 had at the foregoing hearing;

11 And that the foregoing is a true and correct
12 transcript of her shorthand notes so taken as aforesaid
13 and contains all the proceedings had at the said
14 hearing.

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17

KATHLEENE A. TANKSLEY, CSR, RPR

18

19 CSR No. 084-004774

20

21 SUBSCRIBED AND SWORN TO
before me this 3rd day of
22 July, A.D., 2014.

23

NOTARY PUBLIC

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